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OFFICE OF PETITIONS

In re Application of	:	
Marko et al.	:	
Application No. 09/318,031	:	DECISION ON PETITION
Filed: May 25, 1999	:	
Attorney Docket No. XM-0022	:	

This is a decision on the petition under 37 CFR 1.181, filed on July 17, 2006, to withdraw the holding of abandonment.

On November 10, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. On June 19, 2006, the Office mailed a Notice of Abandonment.

Petitioners assert that a proper response was filed timely in the USPTO on February 23, 2006. In support of the petition, petitioner submits a copy of the reply in the form of an amendment, a copy of the request for an extension of time for response within the first month, a copy of the credit card authorization to charge the \$120.00 extension of time fee, a copy of their credit card statement showing the charge of \$120.00, and a copy of a returned, date-stamped postcard receipt. The postcard receipt acknowledges receipt of an Amendment, a Petition for Extension of Time for One Month, and a Credit Card Authorization Form for \$120.00 in the USPTO on February 23, 2006.

The Office has not located the original correspondence; however, the Office finance records reveal a charge to the credit card for \$120.00 on February 23, 2006. Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on February 23, 2006, but was not matched with the application.

The petition under 37 CFR 1.181 is **granted** and the holding of abandonment is hereby withdrawn.

The Office mistakenly charged petitioners' credit card for a second extension of time fee in the amount of \$120.00. This fee will be refunded to the credit card.

This matter is being referred to Technology Center Art Unit 2617 for review of the amendment.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

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